

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
Camden Vicinage

CITY SELECT AUTO SALES, INC., a New Jersey corporation, individually and as the representative of a class of similarly situated persons,

Plaintiff,

v.

DAVID RANDALL ASSOCIATES, INC. and RAYMOND MILEY III,

Defendants.

)
) Electronically Filed
)
) Civil Action No.
) 11-cv-02658-JBS-KMW
)
) Motion Date: November 7, 2011
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**PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED BRIEF IN
OPPOSITION TO DEFENDANTS' MOTION TO DISMISS, *INSTANTER***

NOW COMES the Plaintiff, City Select Auto Sales, Inc., (“Plaintiff”), by and through its attorneys, and moves for an order granting it leave to file its Amended Brief in Opposition to Defendants’ Motion to Dismiss, *Instanter*, pursuant to this Court’s Letter Order of October 4, 2011. (Doc. 13). Pursuant to Local Civ. Rule 7.1(d)(4), Plaintiff has not submitted a brief herewith in the interest of brevity, as the relief requested herein does not raise complex questions of fact or law. In support of its Motion, Plaintiff alleges and states as follows:

1. Plaintiff's brief in opposition to Defendants' Motion to Dismiss was initially due on September 6, 2011.
2. On September 13, 2011, Plaintiff moved for an Order that the deadline for its brief in opposition to Defendants' Motion to Dismiss be extended to October 3, 2011, and that Defendants' Motion to Dismiss be adjourned to October 17, 2011.

(Doc. 10). Counsel for Defendants agreed to that proposed extension.

3. Accordingly, Plaintiff filed its brief in opposition to Defendants' Motion to Dismiss on October 3, 2011. (Doc. 12).

4. On October 4, 2011, however, this Court entered an Order extending the return date for Defendants' Motion to Dismiss to November 7, 2011, well beyond the October 17, 2011 deadline requested by Plaintiff. (Doc. 13).

5. In the October 4 Order, Plaintiff was granted until October 24, 2011 to respond to Defendants' Motion to Dismiss; Defendants were granted until October 31, 2011 to reply. *Id.*

6. Because Plaintiff presumed that Defendants' Motion to Dismiss would be returnable on October 17, 2011, it submitted its brief in opposition thereto 3 weeks early.

7. Pursuant to the October 4 Order, Plaintiff respectfully requests that the Court grant it leave to file its Amended Brief in Opposition to Defendants' Motion to Dismiss, *Instante*. Plaintiff's Amended Brief is attached hereto as Exhibit A.

8. This motion is not brought for purposes of harassment or delay, and Defendants will not be prejudiced by the granting of this motion.

WHEREFORE, Plaintiff City Select Auto Sales, Inc., respectfully requests that the Court enter an order, attached hereto as Exhibit B, granting it leave to file its Amended Brief, *Instante*.

October 24, 2011

Respectfully submitted,

CITY SELECT AUTO SALES, INC.,
individually and as the representative of a class of
similarly-situated persons.

By: s/Alan C. Milstein

Alan C. Milstein,

One of Plaintiff's Attorneys

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Attorneys for Plaintiff City Select Auto Sales, Inc.

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that, on October 24, 2011, he caused a copy of the foregoing motion to be served upon all counsel of record using the ECF system.

s/Alan C. Milstein